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FEB 09 2006

Serial No. 10/677,197
60130-1660; 02MRA0586

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Keith Pound

Serial No.: 10/677,197

Examiner: Jerry E. Redman

Group Art Unit: 3634

Filed: October 2, 2003

For: SELF-FASTENING GLASS ATTACHMENT CLIP

Mail Stop – Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

Appellant submits this Appeal Brief pursuant to the Notice of Non-compliance mailed January 13, 2006. This Appeal Brief conforms with the requirements of 37 CFR 41.37(c). No additional fees are believed required, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds, for any additional fees or credits.

REAL PARTY IN INTEREST

The real party in interest is ArvinMeritor Technology, LLC, assignee of the present invention.

RELATED APPEALS AND INTERFERENCES

There are no prior or pending appeals, interferences or judicial proceedings related to this appeal, or which may directly affect or may be directly affected by, or have a bearing on, the Board's decision in this appeal.

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STATUS OF CLAIMS

Claims 1-6 and 8-22 are pending, claims 2-4,6 and 14-16 stand allowed and claims 1,5,8-13 and 17-22 stand rejected.

STATUS OF AMENDMENTS

All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

An automobile window lift assembly typically includes at least one cursor to provide the coupling between a glass window and the operating mechanism. An attachment member such as a bolt or threaded rod attached to the window is inserted and secured within the cursor.

The window lift assembly 10 claimed in this application includes a window 12 secured within cursors 18 supported on a lifting mechanism 14. An attachment member 16 on the window 12 is received within a slot 20 of the cursor 18. A clip 22 within the cursor 18 includes a locking portion 32 and a biasing portion 34 that secures the attachment member 16 within the cursor 18. (Page 3, Lines 14-19, Figures 1 and 2).

The clip 22 is disposed within the cursor 18 and orientated such that insertion of the attachment member 16 moves the locking portion 32 out of the slot 20. The attachment member moves 16 downward within the slot 20 until contacting the biasing portion 34 of the clip 22. The locking portion 32 of the clip 22 then springs back into a locking position once the attachment member 16 has contacted the biasing portion 34. The locking portion 32 engages the attachment member 16 and prevents removal of the attachment member 16 from the slot 20 of the cursor 18. (Page 3, Lines 28-29 and Page 4, Lines 1-16, Figures 2-4)

Claim 1

Claim 1 recites a window lift mechanism assembly 10 for a window 12 having at least one attachment member 16 and including a cursor 18 adapted to receive the attachment member 16. Further claim 1 requires at least one strand 22 disposed within the cursor 18 that include a

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locking portion 32 for securing the attachment member 16 within the cursor 18. (Page 3, Lines 14-19, Figures 1 and 2).

Claim 13

Claim 13 recites a door module assembly including 11 a window lift mechanism 10, and a window 12 including at least one attachment member 16. Claim 13 further requires a cursor 18 attached to the window lift mechanism 10 where the cursor 18 includes an opening 20 to receive the attachment member 16, and at least one continuous strand 22 disposed within the cursor 18. The continuous strand 22 includes a locking portion 32 for securing the attachment member 16 within the cursor 18. (Page 3, Lines 14-19, Figures 1 and 2).

Claim 17

Claim 17 recites a cursor assembly 18 attachable to a window 12 having an attachment member 16. Claim 17 further requires at least one strand 22 is supported within the cursor 18 that includes a locking portion 32 engageable with the attachment member 16 of the window 12 for securing the 18 cursor to the window 12. (Page 3, Lines 14-19, Figures 1 and 2)

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

(1) Is the rejection of Claims 1,5, 8-13, and 17-22 under 35 U.S.C. § 102(b) as being anticipated over U.S. Patent No. 6,557,302 to Kaps ("Kaps") improper?

ARGUMENT

Claims 1

Claim1 requires a strand disposed within a cursor, where the strand includes a locking portion to secure at least one attachment member within the cursor.

The Examiner has rejected claim 1 over Kaps and reads the entire inner surface and projections within cursors 21 and 22 as the claimed strand. (Office action mailed June 15, 2005, page 3, 1st paragraph). Appellant respectfully states that this is an unfair reading of the term.

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There is no strand in Kaps and Examiner's reading of a strand, as comprising a surface is not proper.

It is well settled that claim terms are presumed to have the ordinary and customary meanings attributed to them by those skilled in the art. *Sunracer Roots Enger. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438,1441 (Fed.Cir.2003). Further, in the absence of some express intent to impart a novel or different meaning, the claims terms are presumed to take on the ordinary and customary meanings attributed to them by those of ordinary skill in the art. *Ferguson Beauregard/Logic Controls v. Mega Systems*, 350 F.3d 1327, 1338, 69 USPQ2d 1001, 1009, (Fed.Cir. 2003).

In this instance, claim 1 requires *a strand* including a locking portion to secure the at least one attachment member. There is nothing in Appellants specification that would signify any intent to impart any other meaning than that provided by any dictionary. *A strand is a string, thread or any other ropelike filament*; as is defined Websters New Twentieth Century Dictionary (Attached as Exhibit A). A surface as indicated by the Examiner cannot meet this limitation. For this reason alone the rejection to claim 1 should be reversed.

Further, a worker skilled in the art would not understand a surface to meet the claimed limitations of a strand. One of ordinary skill in the art would not interpret the limitation of at least one strand to mean a surface of the cursor. For at least these reasons Kaps cannot disclose or suggest the limitation of a strand disposed within a cursor and therefore cannot anticipate the limitations of claim 1.

Additionally, the claim requires that the strand be disposed within the cursor. In Kaps, the surface read by the Examiner, as the "strand" is part of the cursor and therefore cannot be disposed within the cursor. Further, Figures 2 and 3 of Appellant's specification clearly shows that the clip is a separate part from the cursor. How can an element be disposed within itself? For this additional reason, the rejection is not proper. Accordingly, Appellant respectfully requests that this rejection be reversed.

Claim 9 depends ultimately from claim 1, and requires that the cursor include a cavity for retention of the at least one strand. Kaps cannot meet this limitation as the cursor includes the

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locking features. That is, Kaps does not disclose any part separate from the cursor, and therefore cannot disclose a cavity into which a strand is retained.

Claim 13

Claim 13 recites a door module assembly including a window lift mechanism, a window with at least one attachment member, a cursor attached to the window lift mechanism and at least one continuous strand disposed within the cursor comprising a locking portion for securing the attachment member within the cursor. Kaps does not disclose a continuous strand disposed within a cursor and therefore cannot anticipate the limitations of claim 13.

As stated above with regard to claim 1, the Examiner is reading the inner surface and projections within cursors 21 and 22 as the claimed continuous strand. How can a surface read on a strand that is defined as a string, thread or filament? It cannot and therefore the rejection over the Kaps reference is improper. Accordingly, Appellant respectfully requests that this rejection be reversed.

Claim 17

Claim 17 recites a cursor assembly attachable to a window having an attachment member including a cursor and at least one continuous strand supported by the cursor and including a locking portion engageable with the attachment member of the window for securing the cursor to the window.

Again, the Examiner is reading the inner surface and projections of Kaps as meeting the limitation of at least one continuous strand. For the reasons discussed with regard to claims 1 and 13, Kaps does not disclose a continuous strand. The interpretation of a strand to include a surface is beyond any interpretation that a worker skilled in the art would apply to the limitation of a continuous strand. Further, the specification does not support or provide any reason to believe that Appellant meant to apply some novel meaning to the limitation of a "strand". Accordingly, Appellant respectfully requests that this rejection to claim 17 be reversed.


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CONCLUSION

For the reasons set forth above, the rejection of claims 1, 5, 8-13, and 17-22 is improper and should be reversed. Appellant earnestly requests such an action.

Respectfully Submitted,

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Dated: February 9, 2006

CERTIFICATE OF FACSIMILE

I hereby certify that this appeal brief is being facsimile transmitted to the United States Patent and Trademark Office, 571-273-8300 on February 9, 2006.


Amy M. Spaulding

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CLAIMS APPENDIX

1. A window lift mechanism assembly for a window having at least one attachment member comprising;
a cursor adapted to receive the attachment member; and
at least one strand disposed within said cursor comprising a locking portion for securing the attachment member within said cursor.
5. The assembly of claim 1, wherein said locking portion includes a profile to engage the attachment member.
8. The assembly of claim 1, wherein the cursor includes a slot for receiving the attachment member.
9. The assembly of claim 8, wherein the slot includes a cavity adapted for retention of said at least one strand.
10. The assembly of claim 1, wherein said at least one strand is not removable from said cursor.
11. The assembly of claim 1, wherein said cursor is adapted to receive the attachment member and said at least one strand is adapted to trap the attachment member between the locking portion and a bias portion.
12. The assembly of claim 1, wherein a portion of said at least one strand is integrally molded into said cursor.

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13. A door module assembly comprising:
 - a window lift mechanism;
 - a window including at least one attachment member;
 - a cursor attached to said window lift mechanism, said cursor comprising an opening to receive said attachment member; and
 - at least one continuous strand disposed within said cursor comprising a locking portion for securing said attachment member within said cursor.
17. A cursor assembly attachable to a window having an attachment member comprising:
 - a cursor; and
 - at least one strand supported by said cursor and comprising a locking portion engageable with the attachment member of the window for securing said cursor to the window.
18. The assembly as recited in claim 17, wherein said strand includes a slide portion engageable to move said locking portion aside until the attachment member is past said locking portion.
19. The assembly as recited in claim 17, wherein said cursor includes a slot for receiving the attachment member.
20. The assembly as recited in claim 19, wherein said cursor includes a cavity adjacent said slot for supporting said strand.
21. The assembly as recited in claim 1, wherein said at least one strand includes a biasing portion.
22. The assembly as recited in claim 13, wherein said at least one strand includes a biasing portion.

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Evidence Appendix

Exhibit A Copy of Dictionary definition.

WEBSTER'S
NEW
TWENTIETH CENTURY
DICTIONARY
OF THE
ENGLISH LANGUAGE
UNABRIDGED

SECOND EDITION

BASED UPON THE BROAD FOUNDATIONS LAID DOWN BY

Noah Webster

EXTENSIVELY REVISED BY THE PUBLISHER'S EDITORIAL STAFF UNDER THE GENERAL SUPERVISION OF

JEAN L. McKECHNIE

INCLUDING ETYMOLOGIES, FULL PRONUNCIATIONS, SYNONYMS, AND AN ENCYCLOPEDIA SUPPLEMENT
OF GEOGRAPHICAL AND BIOGRAPHICAL DATA, SCRIPTURE PROPER NAMES, FOREIGN WORDS AND
PHRASES, PRACTICAL BUSINESS MATHEMATICS, ABBREVIATIONS, TABLES OF WEIGHTS AND MEASURES,
SIGNS AND SYMBOLS, AND FORMS OF ADDRESS

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NEW YORK

1957

strangles

2. its dried leaves used in medicine as a narcotic, etc.
stram'ōny, *n.* **stramonium**.
strand, *a.* a small brook; also, a passage for water; a gutter. [**Scot.**]
strand, *n.* [**AS.** *strand*; **D.** *strand*; **Ice.** *strond*, margin, edge.] **strand**, is the edge of a body of water, shore, especially ocean shore.
strand, *a.* and *v.*; **stranded**, *pt.*, *pp.*; **stranding**, *ppr.* 1. to drive or run aground, as a ship.
 2. to put or come into a difficult, helpless position; used especially in the passive, as, *stranded* in a strange city with no money.
strand, *n.* [**Pr.** *stran*; prob. of **Gmc.** origin.]
 1. any of the bundles of thread, fiber, wire, etc. that are twisted together to form a length of string, rope, or cable.
 2. a string, thread, or other ropelike filament; as, a *strand* of beads.
strand, *v.* 1. to break one or more of the strands of (a rope).
 2. to make (ropes, etc.) by uniting or twisting together strands.
strand line, a shore line, especially a former one from which the water has receded.
strand'loop'er, *n.* a South African shore bird, *Agidilis tricoloris*.
strand plōv'er, the black-bellied plover.
strand rat, a South African mole rat, *Bathyergus maritimus*.
strand wōlf (wvlf), a South African brown hyena, *Hyena villosa*.
strang, *a.* strong. [**Obs.** or **Dial.**]
strange, *a.*, *comp.* stranger; *superl.* strangest. [**Pr.** *stränge*; **Fr.** *étrange*, from **L.** *extraneus*, that is without, from *extra*, on the outside.]
 1. (a) [Archaic.] foreign; alien; (b) of another place or locality.
 One of the *strange* queen's lords.—**Shak.**
 2. not one's own; not pertaining to oneself or one's belongings; belonging to others. [**Obs.**]
 3. new; unused; not previously known, heard, seen, or experienced; as, a *strange* custom.
 4. wonderful; causing surprise; exciting curiosity; extraordinary; remarkable; singular. "His *strange*, but true; for truth is always *strange*."
Stranger than fiction. —**Byron.**
 5. odd; unusual; irregular; not according to the common way.
 He's *strange* and peevish. —**Shak.**
 6. reserved; distant; estranged; not familiar.
 7. unaccustomed; lacking experience; as, he was *strange* to the job.
strange woman; in the Bible, a harlot.
stränge, *adv.* strangely; in a strange manner.
stränge, *v.* to alienate; to estrange. [**Obs.**]
stränge, *v.* 1. to wonder; to be astonished. [**Obs.**]
 2. to be estranged or alienated. [**Obs.**]
stränge'ly, *adv.* in a strange manner.
stränge'ness, *n.* the state or quality of being strange.
strän'gēr, *n.* 1. a foreigner; one who belongs to another country or place.
 2. one unknown or not familiar; as, the gentleman is a *stränger* to me.
 3. one unaccustomed (to something specified); a novice; as, he is a *stränger* to hate.
 4. a guest or a visitor.
 5. (a) a marine fish, *Oxod richardsoni*, of Australia; (b) a noctuid moth.
 6. in law, one not privy or party (to an act, agreement, title, etc.).
strän'gēr, *v.* to estrange; to alienate. [**Obs.**]
strän'g'le, *v.*; **strangled**, *pt.*, *pp.* **strangling**, *ppr.* [**ME.** *stranglein*; **OFr.** *estrangler*; *estrangleare*, to throttle, choke, from **Gr.** *strangalein*, to strangle, from *stranglein*, a halter, from *strangon*, twisted.]
 1. to kill by squeezing the throat so as to shut off the breath, as with the hands, a noose, etc.; to throttle; to choke.
 2. to suffocate or choke in any manner.
 3. to suppress; to stifle; to repress.
stränge'ly, *adv.* to be strangled; to choke; to suffocate.
strän'g'le-ä-b'le, *a.* capable of being strangled.
strän'g'le hōld, 1. a wrestling hold that chokes off an opponent's breath.
 2. figuratively, any force or action that restricts or suppresses freedom.
strän'g'ler, *n.* one who or that which strangles or destroys.
strän'g'les, *n.* an infectious disease of horses, characterized by a catarrhal inflammation of

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Related Proceedings Appendix

None